

SECTION 1. PURPOSE

The purpose of this revenue procedure is to publish the criteria used by the Internal Revenue Service to determine the circumstances under which advocacy of a particular viewpoint or position by an organization is considered educational within the meaning of section 501(c)(3) of the Internal Revenue Code, and within the meaning of section 1.501(c)(3)-1(d)(3) of the Income Tax Regulations.

SEC. 2. BACKGROUND

.01 Section 501(c)(3) of the Code provides for exemption from federal income tax for organizations that are organized and operated exclusively for purposes specified in that section, including educational purposes. Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term 'educational' relates to a) the instruction or training of the individual for the purpose of improving or developing his capabilities; or b) the instruction of the public on subjects useful to the individual and beneficial to the community. Under this regulation, an organization may be educational even though it advocates a particular position or viewpoint, so long as it presents a sufficiently full and fair exposition of the pertinent facts as to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

.02 In applying section 1.501(c)(3)-1(d)(3) of the regulations, the Service has attempted to eliminate or minimize the potential for any public official to impose his or her preconceptions or beliefs in determining whether the particular viewpoint or position is educational. It has been, and it remains, the policy of the Service to maintain a position of disinterested neutrality with respect to the beliefs advocated by an organization. The focus of section 1.501(c)(3)-1(d)(3), and of the Service's application of this regulation, is not upon the viewpoint or position, but instead upon the method used by the organization to communicate its viewpoint or positions to others.

.03 Two recent court decisions have considered challenges to the constitutionality of section 1.501(c)(3)-1(d)(3) of the regulations. One decision held that the regulation was unconstitutionally vague. *Big Mama Rag, Inc. v. United States*, 631 F. 2d 1030 (D.C. Cir. 1980). However, in *National Alliance v. United States*, 710 F. 2d 868 (D.C. Cir. 1983), the court upheld the Service's position that the organization in question was not educational. Although the latter decision did not reach the question of the constitutionality of section 1.501(c)(3)-1(d)(3), it did note that the methodology test used by the Service when applying the regulation 'tend[s] toward ensuring that the educational exemption be restricted to material which substantially helps a reader or listener in a learning process.' The court also noted that the application of this test reduced the vagueness found in the earlier *Big Mama Rag* decision.

.04 The methodology test cited by the court in *National Alliance* reflects the

long-standing Service position that the method used by an organization in advocating its position, rather than the position itself, is the standard for determining whether an organization has educational purposes. This methodology test is set forth in Section 3 of this revenue procedure, and is used in all situations where the educational purposes of an organization that advocates a particular viewpoint or position are in question. Publication of this test represents no change either to existing procedures or to the substantive position of the Service.

SEC. 3. CRITERIA USED TO DETERMINE WHETHER ADVOCACY BY AN ORGANIZATION IS EDUCATIONAL

.01 The Service recognizes that the advocacy of particular viewpoints or positions may serve an educational purpose even if the viewpoints or positions being advocated are unpopular or are not generally accepted.

.02 Although the Service renders no judgment as to the viewpoint or position of the organization, the Service will look to the method used by the organization to develop and present its views. The method used by the organization will not be considered educational if it fails to provide a factual foundation for the viewpoint or position being advocated, or if it fails to provide a development from the relevant facts that would materially aid a listener or reader in a learning process.

.03 The presence of any of the following factors in the presentations made by an organization is indicative that the method used by the organization to advocate its viewpoints or positions is not educational.

- 1 The presentation of viewpoints or positions unsupported by facts is a significant portion of the organization's communications.

- 2 The facts that purport to support the viewpoints or positions are distorted.

- 3 The organization's presentations make substantial use of inflammatory and disparaging terms and express conclusions more on the basis of strong emotional feelings than of objective evaluations.

- 4 The approach used in the organization's presentations is not aimed at developing an understanding on the part of the intended audience or readership because it does not consider their background or training in the subject matter.

.04 There may be exceptional circumstances, however, where an organization's advocacy may be educational even if one or more of the factors listed in section 3.03 are present. The Service will look to all the facts and circumstances to determine whether an organization may be considered educational despite the presence of one or more of such factors.

SEC. 4. OTHER REQUIREMENTS

Even if the advocacy undertaken by an organization is determined to be educational under the above criteria, the organization must still meet all other requirements for exemption under section 501(c)(3), including the restrictions on influencing legislation and political campaigning contained therein.